

# Competition Ran

by

Paddy Gormley

*Solicitors' business management acumen has been greatly enhanced by the need to compete.*

*But the profession remains hidebound by outdated management practices.*

*Firms' views of the future are perilously unfocused.*

*Practice may soon be outflanked by powerful competition from surprising sources.*

**T**he advent of *real* competition between firms has done much to drag the legal profession into the real world. Before the slump, there was more than a grain of truth in clients' assertion that solicitors were unbusinesslike: whereas ordinary mortals had long since learned that client service was to be taken seriously, the legal profession continued to revel in the megalosaurian delusion that it was immune from such fashionable (*sniff!*) new infections.

Since 1992 if not before, solicitors are disabused of that heresy at least. With the exception of a few sainted oligarchs, practitioners in all walks of legal life, from High Street to High Court, have been hard at work in battlefields all teeming with antagonists, fighting to keep their feet in the soft competitive ground.

## LawyeRed in tooth and claw

Gone are the days when strategic plans looked into the stratosphere and saw naught but perpetual growth in fees, head count and profits per partner. Even the most self-deceiving of partners have come to accept that increases in fee income are no longer the manna that once they were. Business getting, in short, now means exactly what it always should have meant but never really did: hooking a competitor's clients by virtue of one's more cost-effective response to clients' needs.

But the age of enlightenment in the legal profession lingers yet in the twilight of the dawning of its first day. Five years of attrition may have snubbed the façade of the gentleman's club that was, but club members are determined to ensure that their arcane traditions and

atavistic rituals are not so readily to be effaced. So it is that consenting partners here, there and everywhere unwittingly hasten the process of attrition by indulging in (but not acknowledging) shameful practices such as Fudgeting, Ploductivity and Nonsensus (*v. eponymous articles by PG*) even in the face of dear old Dr Cameron's chronic counselling on the causes of blindness. The alleged ophthalmological links are not clinically proven, of course, but there is alarming evidence of extreme short-sight nonetheless.

## Crystal balls up

Nowhere is this infirmity more evident than in firms' attempts to envisage the future. The question of the future has always been a problematic one for lawyers, of course, whose stock-in-trade is certainty. But now that so many have come to the radical persuasion that the impossibility of *predicting* the future should not prevent one from *engaging* with it, "strategic planning" meetings are increasingly commonplace.

The format is accordingly well established. Someone somewhere (typically the managing partner) draws the short straw in the ballot to decide who is to chart the course for the future development of the firm. Months later, out pops a fat document: perhaps completely innumerate, and accordingly useless; perhaps too complicated by far (especially if the partner in question has recently brushed with an MBA or a Harvard sabbatical), in which case few partners read and fewer still understand. The lack-of-consultation period is closely followed by the weekend partnership meeting (*ask not*

what you can do for spouse and family; ask what another few days spent not seeing them can do for you) at which the grand plan commands a wholehearted nonsensus, and then straight back to doing things the way we always did them.

## Veni vidi vinew

This dismal scenario is the product of atavistic nonsenses too many to mention, of course. Not least among these are the general distaste for identifying and properly assigning the tasks needed to translate ideas into reality, and the no less culpable failure to make partners personally accountable for the actions they must take to implement the plan. And dare I suggest (*Oh do, do, Paddy, hit me again!*) that the quality of the thinking itself too often leaves much to be desired.

Part and parcel of the unthinking “strategic planning” nostrum so popular in legal circles is the questionable premise that the future will always reflect the past. Lawyers, of all God’s creatures, might be forgiven their adherence to this half truth, since it has after all reigned supreme for centuries in their profession as the *whole* truth and nothing but the truth.

## So help me, God

So it is that “strategic planning” in too many firms boils down to grumbling about next year’s fee targets, fisticuffing over whether to admit itchy-footed senior assistant Snodgrass to the equity, or fantasising about the merger to end all. (*Word misshing here shurely? - ed.*)

What the proponents of this tired, tick-box approach to planning tend to overlook is that legal business is in the throes of the mother and father of all shake-ups. Even as clients rise in arms against time-based charging, chargeable hours are still the stuff of which firms’ ivory towers are made. Even as clients capture legal information in increasingly expert systems, partners everywhere continue to plan in perpetuity for the reinvention of the wheel that has provided their meals and school fees since God was a boy. Even as powerful new competitors (in the shape of financial institutions) are breaking new ground in the development of low cost, user friendly, but impersonal services, solicitors dream on that *their* clients will always be happy to pay for the *arm-and-a-leg-intensive* brand of personal service that is now the only show in town.

The real strategic debate - the one that always finds itself filibustered out of the *strategic-planning-have-it-away-day* by more pressing issues such as the senior partner’s secretary’s surprise 4.7% pay rise - the *real* strategic debate is about the future shape of legal business as a whole, *where* the firm hopes to appear in the picture and *what* the partners need to do to get there.

## Starship Entropy

It is a fairly safe bet that there will be legal life beyond the Millennium, Jim, but not as we know it. Hate ’em or loathe ’em, those pesky computers are having as profound an effect on legal services as on every other aspect of our lives.

See how the computer services industry itself has changed. The once lucrative market for “bespoke solutions” has contracted sharply with the advent of powerful new products. The hirsute database designer whose mystical mantra once commanded a cool £150 an hour now comes flat packed on CD for an gnat’s-kneecap-worth of his former fee. Powerful software products have unleashed a tidal wave of spectacular innovation.

The legal profession will doubtless advocate a more measured pace of change, but clients and others will force the pace. Like it or not, the lawyers of today may all too soon see *their* numbers contract as sharply as the unwary computer boffins of yesteryonk. There will always be opportunities for lawyers - manning technology based help lines, developing and supporting on-line links between firms’ and clients’ expert systems, designing and marketing supermarket-priced personal legal systems for the legally challenged, and other jobs besides. There will even be the lucky few who remain free to prolong the *ancien régime* by virtue of their arcane and accordingly price-insensitive specialisations, but such freedom will endure only as long as they keep their expertise at the very atom of the leading edge.

## Practice makes purblind

If lawyers’ present thinking is any indication of their future actions, there is a very real danger that most of the innovation, and accordingly the most fearsome competition, will not come from the disillusioned souls who have abandoned all altruism in hopes of clawing their way to the top of the precipice of private practice. Rather, it will be the domain of talented law school graduates whose unaccountable rejection by today’s market leaders prompts them to wonder whether there might be another way. Even as the raggle-taggle, conscript army that is present day private practice struggles to muster its might, there is a very real danger that it will suddenly find itself outflanked by a clutch of young, business-minded wannabes, with the backing of serious City money.

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# MULTI-SPECIALIST PERSONS OF AFFAIRS

by  
Paddy Gormley

*Specialisation has gone too far. Clients want specialist Persons of Affairs, not boffins.*

*Computers will be the technical specialists of the 21st Century.*

*Firms must distinguish between the commodity (specialist knowledge) element of their service and the creative (business problem solving) element and review their delivery systems and pricing policies accordingly.*

Ah, the good old days! In the cloistered world of scale fees and inscrutable brass plaques, lucrative partnerships were as sure as dead men's shoes, and nothing short of a sentence for gross indecency could impede a glorious career. If you'd half a mind to be a lawyer, that was all you needed.

Things could hardly have changed more. Even as the legal profession continues to grow inexorably faster than its nearest rival in the public popularity stakes—The Royal Institution of Rat Catchers—the demands placed upon practising lawyers have increased no less inexorably. Any youngster wanting to make his or her way in serious commercial practice must clock up zillions of highly specialised, chargeable brownie points from here to eternity. There are rumours of an impending initiative by the World Wildlife Fund to protect the few remaining specimens of *lesser spotted general legal practitioner*. And the only certainty in 1990s partnership is the enduring grasp of the property lease whose tenacious tentacles dig dangerous deep into declining years.

## The age of enfrightenment

Is this a sustainable scenario for the legal profession in the dawning of the new age of enlightenment? Of course not, as any thinking lawyer will tell you. But then there are thinking lawyers and thinking lawyers: on the one hand, the thousands who think only timesheets, monthly billing figures and partnership pecking orders—on the other, the thoughtful few who think that the future may be made of still sterner stuff than the recent past.

The big question for the more-than-half-minded lawyer in the late 1990s must surely be *What will I be doing in five years from now?* Unless one is lucky enough to be coasting

down the final stretch of banister that leads to the Annuitants' Department, the question of one's future is no longer the no-brainer it once seemed. On the contrary, those who unthinkingly abide by the tenet that *one-should-never-ask-the-question-unless-one-knows-the-answer*, may find themselves in still hotter water: global warming may be but slowly putting the heat on the legal profession, but there are signs that many lawyers' brains are already addling by the chargeable hour.

## Broaden your orisons

In any debate about the lawyers of the future, the issue of specialisation should set more alarm bells ringing than most other topics. The advent of large firms and the rise of horses for courses have served to transform all but the lowest forms of legal life into specialists of some sort or other. The once-coveted title of *Men of Affairs* has passed into oblivion or, some say, into the accountancy profession (*shame thing, shurely? ed.*).

Has not specialisation gone too far already? Clients rightly expect to deal with a *Personal Injury Specialist*, or whatever, rather than with a plausible *Person of Affairs*. More problematically, however, they also expect to deal with lawyers who understand the *real* world of business and human nature. Should we not be just a little concerned at the rising of a generation of lawyers whose universe is the domain of *left-handed-widget-competition-law*, who know no life beyond the hot-house—no cause more worthy than the time recording target? What chance for the legal profession to reclaim the elusive accolade of *Persons of Affairs* when most of its successors have about as much breadth in them as a gnat's kneecap?

As if that little problem wasn't enough, computer systems are increasingly capable of storing, and regurgitating at marginal cost, the arcane detail that is the very must of countless legal treadmill treaders. Shamefully few firms may be developing legal know-how systems at present but, in the short term at least, there are rich pickings for the few that are. In the price-competitive, technology-rich market of the future, when the ubiquitous expert system can give the answer instantly for next to no cost, what sensible life form is going to pay £200 an hour for the dubious privilege of trying to elicit a comprehensible response from an anorak posing in a sharp suit?

THERE HE GOES AGAIN, chorus the silent voices of countless beleaguered readers who suffer from the chronic self-delusion that Gormley's latest barb is directed at everyone else but them. I'M TALKING TO YOU—YES YOU.

*Until now, specialist knowledge  
has always been at a premium,  
because it has only been available  
through specialist people—*

*Suddenly, that will change.*

## Pre-Millennial Stress

Specialist knowledge, let's face it, is only part of the equation. Real lawyers know that clients are buying solutions, not just specialist knowledge. The value to the client depends primarily on the satisfactoriness of the solution. The price the client is prepared to pay has little or nothing to do with the firm's expense of time. You knew all that already, didn't you? Thought so!

The problem is that, whilst clients will always be willing to pay for creative solutions that they cannot achieve for themselves, they are increasingly unlikely to be willing to pay serious money for inefficient delivery of the underlying specialist knowledge. We forget at our peril the fact that specialist knowledge is a commodity. Like all commodities, you can only sell it at a premium as long as it remains in short supply.

Until now, specialist knowledge has *always* been at a premium, because it has only been available through specialist people. Accordingly, firms have never needed to distinguish between the information element of their service and the creative element. Suddenly, that will change. Expert systems will give grist to the creative end of the legal process far more cleverly and cost effectively than specialists. Furthermore they will be faster, more reliable and less arrogant than their android ancestors. The ranks of post-Millennial hubrists who understand the implications of every syllable of every subtle sentence of the *Widgets (Left Handed) Competition Act 1999* will soon go the way of the weavers, leaving the designers of clever, client-friendly solutions to bear the banner for the much reduced legal

profession unto kingdom come. Like the silk-and-sweatshops of Spitalfields, the hot-house legal factories of today will have had their day. You knew all that too, didn't you? Thought so!

## Heading for a spreading

So what are you doing, you clever old legal profession?—Ramping up the population of timesheet-wallahs as fast as the balloon pump will let you, and housing them in ludicrously long-leased, over-priced office accommodation—Merging your battery hen-houses with the

turkeys who live on the hill in earnest hopes of engendering the largest white elephant the Twenty-First Century can't wait to see—Renting out the family jewels by the chargeable hour as though the Age of Anachronism which is

present day legal practice will endure forever.

Get a grip, for sense's sake! Desist from the foolish self-delusion that the legal profession can forever go on playing by yesterday's rules. Your clients are years ahead of you in terms of creating efficient, sustainable businesses. They scorn your pathetic achievements in the use of technology and your self-defeating adherence to outdated practices. They will play by the old rules for only as long as it suits them. Unless you are out there soon, seriously slimmed down, with intelligent front-line IT, fielding rounded, multi-disciplinary professionals who know as much about client psychology and business problem solving as they do about the law, your clients will be buying somebody else's bananas.

## Gomorrah never dies

On my bad days, gentle reader, I weep. I weep for the profession that listens so intently yet hears only what it wants to hear—for the profession that prides itself on its grasp of language yet cannot see the writing writ large upon the walls of its ivory tower—for the profession that claims to understand this and every other issue under the sun, yet cannot see beyond the end of its financial year—for the profession that includes many of the brightest brains in the world, yet cannot begin to manage its way out of an over-inflated bubble.

Prove me wrong!—SOMEBODY!—PLEASE!

*Paddy Gormley is the author of Practical Pricing, the best-selling practice guide for solicitors.*

The Three  
Little  
Partners

by  
Paddy Gormley

Once upon a time ...

when the legal profession was a gentlemen's club and inflation was the name of the feel-good factor, there were three little partners.

They had a happy little childhood in the halcyon eighties, safely salary-suckled by their generously endowed mother firm, until came the great day in ninety-something when they must make their own way in life. Little did they know how fiercely the icy winds of the big bad world would soon rattle their fragile futures!

### This little partner went to market

The first little partner, who was called Finder, built herself a little house on wheels with a little sign saying "knock me down if I'm not the cheapest little partner you ever did see", and put on some red snoutstick and pushed her little house round all the beauty parades and got lots and lots of lovely little work for herself and all her lucky little assistants, for she knew that the road to success was paved with lots of busy little assistants doing lots of lovely little chargeable hours.

And of course Finder's prices had to be extremely keen because there were lots of other little partners out there, all pushing their little wheelie houses around with their little signboards, and keen prices were the price you had to pay in those days to get clients. And of course the work would never be very profitable but not-very-profitable work was better than no work at all with the overheads to pay and the world so young and all and it was a good way to hook the clients, wasn't it, and once they were hooked they would stay with you, wouldn't they, because you gave such wonderful value for

money, didn't you, and they would be sure to stay with you when things picked up again and you put your rates again.

They really would stay with you, wouldn't they?

Of course they would.

Wouldn't they?

And little Finder's plan worked really well because none of her partners knew how to do a proper profitability analysis, so nobody could see whether little Finder was really paying her way and maybe there was a bit of cross-subsidy from other parts of the farm but then that was the Common Particultural Policy for you, and loss-leading was the only way to win clients, wasn't it, and everything would be all right in the end, wouldn't it?

Well, wouldn't it?

Of course it would?

Wouldn't it?

*... and loss-leading was  
the only way to win clients,  
wasn't it,  
and everything would be  
all right in the end,  
wouldn't it?*

And little Finder smiled down at her litter of little piglets working their little pigtails off and wondered what would happen to them all if the going rate for their fine little swill kept falling away as fast as it had been doing for a couple of years now. And she sighed a little sigh as she looked at the little pig flying past her

little window and she knew the good old days must come again soon.

### This little partner stayed at home

Meanwhile the second little partner, whose name was Minder, had an even better idea: he would build himself a nice little house out of timesheets. He grabbed hold of all the potentially profitable chargeable work he could lay his trotters on, just like his father Hogger had always taught him to do. And since there was not a lot of chargeable work about just then (unless he was prepared to take a share of little Finder's unprofitable little fees which he was certainly not going to do, no way José),

# The Three Little Partners

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## Leading Lawyers

and he being a hungry little porker, he kept all the chargeable little work for himself.

He had a couple of little assistants, of course, but they only needed a few scraps to keep them happy, and he always remembered to give them a little cuddle every time they filled their timesheet. Of course he knew that most of their time would be written off unbilled in the end, but they all looked so lovely and busy and, since the management information was a load of old pigwash, nobody was ever likely to notice anyway as long as his personal billings were porky enough, and do you know they always were.

In fact some of his bills were so porky that his clients didn't bother to pay them at all, but then chasing up debts was no job for a piglet as important as little Minder and clients were going bust right left and centre at that time and the P&L looked all right anyway thank you very much and nobody had ever thought to tell him that every little partner ought to be able to do sums so that was all right then.

### This little partner had roast beef

And so little Minder sat pretty in his little ivory timesheet house, snout snug in trough and happy as the recession was long. He could feel a bit of a draught coming from somewhere, but then all life was a breeze and there was nothing to worry about at all, was there?

No no no, of course not, don't be silly.

### This little partner had none

The third little partner was well known to be the lame pig of the practice (not being an M. A. Cantab., you understand). He had such a slow, deliberate way about him that the others all called him Grinder. He wasn't too bothered about building himself much of a house just yet, but instead he set himself up in a quiet little office with a little computer and a little fax machine and the other little partners used to look round the door and look at his little piggy eyes staring into his screen or scanning a copy of Widget Business Monthly and they laughed and laughed and wondered whether he was a lawpig at all or what was he.

And he wrote and wrote lots and lots of things about widget law in his little office and sent them to all the little pigs in the widget business and he never seemed to do any *real* work. And when little Funder's little widget

clients came to him with their lovely little cut-price instructions he told them that that wasn't really his sort of thing at all and maybe they should ask somebody else.

And when he did take an instruction he would delegate everything he possibly could to his little team of hungry little grinders and they would grind away at it until every detail was shining like silver and the client was glowing with satisfaction. And a lot of the time they had to write off their time unbilled because they were such a lot of grinders, but they would just shrug their shoulders and put it down to experience and do it better next time.

And when there was not much chargeable work to do they would all get together and talk about silly old developments in the silly old widget business and what they could do to help the silly old widget people and go out and meet lots of silly old widget people and have lots of silly old discussions with them about silly old widgets.

And these little partners cried wee-wee-wee-wee-wee-wee-wee

*Nobody had ever thought  
to tell him that every little partner  
ought to be able to do sums  
so that was all right then*

And Grinder's partners would look round his door and laugh and laugh and then they would go away and cry and cry to think what was going to happen to poor little Grinder if he didn't spend more time being a lawpig and less time thinking about silly old widgets.

And as Grinder sat at his screen writing his umpteenth article about widget law and feeling a little hungry, he would sometimes stop and think to himself that maybe his day might come one day, just maybe.

And little Tiny Tim, the littlest grinder of them all, would sometimes lift his little piggy eyes from his little piggy work and say "God bless us every one".

And the big bad world blew hot and cold for many a year and the three little partners shivered and shivered and can you guess what happened to them all?

Well, they *were* partners after all and so, I'm sorry to say ...

*they all lived unhappily ever after.*

*Paddy Gormley is the founder of legal business management consultants Leading Lawyers.*